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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,350	02/13/2004	Steven J. McCarthy	ID-499 (80229)	9602
27975	7590	08/30/2005	EXAMINER	
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			DAFTUAR, SAKET K	
			ART UNIT	PAPER NUMBER
			2151	

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/779,350

Applicant(s)

MCCARTHY ET AL.

Examiner

Saket K. Daftuar

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02/13/2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

20

### DETAILED ACTION

1. This action is responsive to the amendment filed on July 25<sup>th</sup>, 2005. Claims 1-22 are presented for further examination.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hammond, (U.S Patent No. 6,854,007), hereinafter Hammond in view of Gu et al, (U.S. Patent No.6, 744,780), hereinafter Gu.

As per claim 1 and 10, Hammond discloses a communications system comprising: a plurality of source message servers for storing messages for delivery to a user and a target message server having a target message box associated therewith [senders and recipients (column2, lines 1-2)], an aggregation server for periodically aggregating the messages from said source message servers to the target message box for retrieval by the user [Message Review Server (MRS) system includes a message sender that collects the supplied message tracking information, sends the message to the specified

recipients (column 5, lines 1-4)], and Said target message server providing a delivery failure message to said aggregation server based upon a failure to deliver a message to the target message box [if the delivery or review of the electronic message has not been confirmed, resending the message (Column 2 line 5-8); examiner consider when there is no confirmation as a failure].

Hammond discloses the claimed invention, but fails to specifically teach that said aggregation server increasing a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreasing the period of sending messages to the target message box based upon a successful delivery of a message thereto.

Gu teaches a system, wherein an aggregation server increasing a period of sending messages to the target message box based upon a delivery failure message therefrom, and thereafter decreasing the period of sending messages to the target message box based upon a successful delivery of a message thereto [Unique polling interval based on traffic detected and adjust the polling interval according to the extent of status information (Column 3, lines 50-55)].

Therefore, it would have been obvious to one having ordinary skill in the art to include the polling adjustment as being taught by Gu into Hammond's

system in order to provide channel capacity over a polling system that is commensurate with the traffic.

As per claims 2, 11, 16, and 19, Hammond discloses that said aggregation server selectively re-sends messages for which delivery failure messages are received [resending the electronic message (column 2, line 7)].

As per claim 3, Hammond discloses that said aggregation server comprises an intelligent checker module for aggregating the messages from said source servers to said target message box [Message Receipt Tracker (Column 5, lines 32-34)].

As per claims 4, Hammond discloses that said aggregation server further comprises a software agent module having a unique address associated therewith; wherein said intelligent checker module sends the unique address with the messages to the target message box; wherein said target message server sends the delivery failure messages to the unique address; and wherein said software agent module associates the delivery failure messages with the target message box [Message Tracking Table Processor (Column 5, lines 32-34). Message Tracking Table Processor periodically reviews the delivery time and review time information in the Message Tracking table (Column 5, lines 34-48). Examiner considers no review time notification as a failure delivery].

As per claim 5, Hammond discloses that said aggregation server further comprises a knowledge base module for cooperating with said software agent module for storing delivery failure information for the target message box, [Message Receipt Tracker stores appropriate information in the Message Tracker Table and resets a Resend Timer (Column 5, lines 37-40)], But fails to disclose that said intelligent checker module cooperates with said knowledge base module to increase or decrease the period of sending based upon the stored delivery failure information.

Gu discloses that said intelligent checker module cooperates with said knowledge base module to increase or decrease the period of sending based upon the stored delivery failure information [A polling unit for adjusting the initial polling interval to a subsequent polling interval based on the detection of the at least one traffic status message (Column 12, lines 3-5)]

Therefore, it would have been obvious to one having ordinary skill in the art to include the polling adjustment as being taught by Gu into system in order to provide channel capacity over a polling system that is commensurate with the traffic.

As per claims 6, 13, and 21, Hammond discloses that said knowledge base module cooperates with said software agent module to store the delivery failure information for the target message box based upon a source message box identifier and a message identifier associated therewith information [The Message Sender

Art Unit: 2151

Components collects the supplied message tracking information, sends the message to specified recipients, and stores the message tracking information and the message send time in the Message Tracking Table (Column5, lines 1-4)].

As per claims 7-9, 14, 17, and 22, Hammond discloses a communication devices comprises a mobile wireless communication device associated with the user of the messages from the target message box, wherein the messages comprises electronic mail (e-mail) messages [Recipient computer systems (Column 6, lines 20-22), Hammond further discloses a paging device (Column 6, line 43), and Electronic Messages (Column 1, line 13)].

As per claims 12 and 20, Claims 12 and 20 encompass the same scope of the invention as that of claims 3 and 4. In addition of a medium having computer executable modules (Column 4 Line 42). Therefore, Claim 12 is rejected for the same reason as stated above with regard to claims 3 and 4.

Also in claims 15 and 18, Claims 15 and 18 Encompass the same scope of the invention as that of claim 1. In addition of a medium having computer executable modules (Column 4 Line 42). Therefore, Claims 15 and 18 are rejected for the same reason as stated above with regard to claim 1.

***Response to Arguments***

4. Applicant's arguments filed on July 25<sup>th</sup>, 2005 have been fully considered but they are not persuasive.

As per arguments filed on July 25<sup>th</sup>, 2005, the applicants' argue in substance that:

- a. Hammond does not teach taking received messages from plurality of recipient servers and delivery them to a single aggregated mailbox for the user.

In response to apply argument a), Hammond teaches the server collects message and deliver to the recipients (Hammond, column 5, lines 1-9). Delivering a message to single aggregate mailbox for the user, inherently present in an application program with which the recipient can review the message. (Hammond, column 1, lines 47-50). The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination teaching of Hammond and Gu teaches aggregating messages from a plurality of source message servers to a target message box for retrieval by a user (Gu, Network



management system communicating with one or more network elements inherits plurality of source message server, see column2, line 30-34).

b. The proposed combination of references would render the primary Hammond system unsuitable for its intended purpose and in fact would change its principle of operation.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination teaching of Hammond and Gu et al teaches if there is failure during initial polling interval, the polling units increases the initial polling interval to a subsequent polling interval (column 3, lines 57-60, Gu).

Therefore, it would have been obvious to one having ordinary skill in the art to include the polling adjustment as being taught by Gu into system in order to

provide channel capacity over a polling system that is commensurate with the traffic.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.


***Contact Information***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Saket K. Daftuar** whose telephone number is **571-272-8363**. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Zarni Maung** can be reached on **571-272-3939**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKD  
August 25, 2005

  
**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER